

UNDT/2011/004, Meron

UNAT Held or UNDT Pronouncements

The Tribunal found this decision unlawful as not grounded on any valid legal basis. It awarded three months' net base salary for moral damage.

Decision Contested or Judgment/Order Appealed

The Applicant, a Finish national holding a short-term appointment, was selected for a post and offered a two-year contract, but OHRM informed her that, if she wished to be granted this contract, she would need to relinquish his permanent resident status in Australia.

Legal Principle(s)

Decision affecting the applicant's rights: Since staff members have the right to apply to other positions under the Staff Rules and Regulations, they are entitled to contest a non-selection decision or one imposing an additional condition for appointment after having been selected. Such a decision does affect the staff member's rights and is thus open to appeal. Lack of legal basis for the condition to renounce to permanent resident status: The General Assembly never endorsed the recommendations to approve the establishment of the condition that staff members must relinquish their permanent resident status in order to obtain an appointment with the Organization. There is no written rule prescribing such a condition. In addition, the terms of appointment of staff members and in particular the conditions for their recruitment are governed exclusively by the Staff Rules and Regulations, and, if anything else, by the administrative issuances promulgated in application thereof. The Secretary-General exceeded his authority in prescribing to the Organization's services to generally apply an additional condition for recruitment of international staff members. Difference of post adjustment: Difference between post adjustments in two different duty stations is linked to the duty station where the

staff member serves and cannot be claimed as a loss suffered by an applicant. Material losses: Potential and future prejudice as well as that not directly related to an unlawful decision do not constitute losses for which compensation may be claimed.

Outcome

Judgment entered for Applicant in full or in part

Full judgment

[Full judgment](#)

Applicants/Appellants

Meron

Entity

UNHCR

Case Number(s)

UNDT/NY/2010/051/ UNAT/1658

Tribunal

UNDT

Registry

New York

Date of Judgement

7 Jan 2011

Duty Judge

Judge Kaman

Language of Judgment

English

French

Issuance Type

Judgment

Categories/Subcategories

Compensation

Non-pecuniary (moral) damages

Pecuniary (material) damages

United Nations Joint Staff Pension Fund (UNJSPF)

Applicable Law

Staff Rules

- Rule 11.2(d)

UNDT Statute

- Article 10.6

UNJSPF Regulations

- Article 1(q)
- Article 53
- Article 54